

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL ACTION NO.
)	3:09cr203-MHT
JOHN ERNEST JOHNSTON)	(WO)

ORDER

In light of the government's motion for reconsideration and supplemental motion for reconsideration (doc. nos. 66 & 70), it is ORDERED that by 1:00 p.m. today, July 23, 2013, the government is to respond to the following finding by the court:

"The United States Marshal for the Middle District of Alabama filed a detainer with the federal prison housing Johnston on February 23, 2011. Detainers (Doc. No. 58, Ex. 1) at 4. This detainer differs from the two earlier detainers filed against Johnston because whereas the earlier two were captioned, 'DETAINER AGAINST UNSENTENCED FEDERAL PRISONER,' this detainer was captioned, 'DETAINER AGAINST SENTENCED FEDERAL PRISONER.' Id. at 2-4 (emphasis added). Therefore at least as of February 23, 2011, the Middle District of Alabama knew full well that Johnston had been sentenced on the Georgia robbery. The February 2011 detainer

differs in substance, as well. While the first two detainers request that the custodian alert the Middle District of Alabama when the defendant is sentenced, the final detainer asks the custodian to notify the Middle District of Alabama upon the subject's release from custody. There was thus no reason for the Middle District of Alabama to sit on its hands after filing this detainer; it knew no further notice was due from the Middle District of Georgia until after Johnston finished serving the Georgia sentence.

"Finally, the government's evidence shows that the Marshal Service for the Middle District of Alabama received a notice from the federal prison holding Johnston on March 30, 2011. The notice advised the Middle District of Alabama that Johnston was in the custody of the Bureau of Prisons (BOP), that a release date had been set for July 16, 2013, and that the next notice would come 60 days before his release from BOP. Id. at 6."

Opinion (Doc. No. 64) at 12-13.

DONE, this the 23d day of July, 2013.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE